



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2011-0642 FRL-9620-8]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Delaware; Amendments to the Control of Nitrogen Oxides Emissions from Industrial  
Boilers and Process Heaters at Petroleum Refineries**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Delaware. This SIP revision amends Delaware's regulation that establishes controls for nitrogen oxides (NO<sub>x</sub>) emissions from industrial boilers and process heaters at petroleum refineries by including a NO<sub>x</sub> emission limit for the fluid catalytic cracking unit carbon monoxide (CO) boiler at the Delaware City Refinery and providing for a facility-wide NO<sub>x</sub> emission cap compliance alternative. This SIP revision also includes a demonstration that these amendments to the existing Delaware regulation will not interfere with the attainment or maintenance of any National Ambient Air Quality Standards (NAAQS) or any other applicable requirement of the Clean Air Act (CAA). This action is being taken under the CAA.

**DATES:** Written comments must be received on or before [insert date 30 days from date of publication].

**ADDRESSES:** Submit your comments, identified by Docket ID Number **EPA-R03-OAR-2011-0642** by one of the following methods:

- A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
- B. E-mail: [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov)

C. Mail: **EPA-R03-OAR-2011-0642**, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. **EPA-R03-OAR-2011-0642**. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

***Docket:*** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Asrah Khadr, (215) 814-2071, or by e-mail at [khadr.asrah@epa.gov](mailto:khadr.asrah@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA.

## **I. Background**

On June 17, 2011, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP to amend Regulation No. 1142, Section 2.0 - Control of Nitrogen Oxides Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries. Delaware first promulgated Section 2.0 of Regulation No. 1142 on July of 2007 and subsequently revised it in 2009, as a result of a settlement agreement between DNREC and the Premcor Refining Group, Inc. (Premcor). On November 17, 2009, DNREC submitted Section

2.0 of Regulation No. 1142 as a SIP revision and on June 6, 2010 (75 FR 31711), EPA approved it into the Delaware SIP.

Furthermore, in 2009, the operations at the Delaware City Refinery ceased and in 2010, the refinery ownership changed from Premcor to the Delaware City Refining Company, LLC (DCRC). On May 31, 2010, DNREC and DCRC reached an agreement on the Delaware City Refinery's acquisition, restart, and operation. One element of that agreement was to revise Section 2.0 Regulation No. 1142 to provide for a facility-wide NO<sub>x</sub> emission cap compliance alternative. This SIP revision pertains to the amendments to Section 2.0 of Regulation No. 1142 as a result of DNREC and DCRC's agreement.

## **II. Summary of SIP Revision**

Delaware's SIP revision establishes controls for NO<sub>x</sub> emissions from industrial boilers and process heaters at petroleum refineries. This SIP revision includes a NO<sub>x</sub> emissions limit for the fluid catalytic cracking unit CO boiler (Unit 23-H-3) and provides for, as an option, compliance with a facility-wide NO<sub>x</sub> cap as an alternative to unit specific NO<sub>x</sub> emission limits. The initial facility-wide cap is being established at the level of Premcor's actual 2008 NO<sub>x</sub> emissions (i.e., 2,525 tons per year (tpy)) and will decline in two step decreases, as follows: (1) 2,525 tpy, evaluated over each 12 consecutive month rolling period, for any 12 month rolling period ending on or before January 2014; (2) 2,225 tpy, evaluated over each 12 consecutive month rolling period, commencing with the 12 month rolling period beginning on December 31, 2013 and ending on December 31, 2014; and (3) 1,650 tpy, evaluated over each 12 consecutive month rolling period, commencing with the 12 month rolling period beginning on December 31, 2014

and ending on December 31, 2015. Under the revised Section 2.0 of Regulation No. 1142, either all of the unit specific NO<sub>x</sub> emission limits apply or the facility-wide cap applies at all times. In addition, this SIP revision also includes a demonstration that these amendments to the existing Delaware regulation will not interfere with the attainment or maintenance of any NAAQS or any other applicable requirement of the CAA. Additional technical support regarding this regulation can be found in the technical support document (TSD) available online at [www.regulations.gov](http://www.regulations.gov), Docket ID Number **EPA-R03-OAR-2011-0642**.

### **III. Proposed Action**

EPA's review of this material indicates that the amendments to Section 2.0 of Regulation No. 1142 will not affect the attainment and maintenance of any of the NAAQS. EPA is proposing to approve the Delaware SIP revision, submitted on June 17, 2011, amending Regulation No. 1142, Section 2.0 that includes a NO<sub>x</sub> emissions limit for the fluid catalytic cracking unit CO boiler at the Delaware City Refinery and provides for, as an option, compliance with a facility-wide NO<sub>x</sub> cap as an alternative to unit specific NO<sub>x</sub> emission limits. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to the control of NO<sub>x</sub> emissions from industrial boilers and process heaters at petroleum refineries in Delaware, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: January 3, 2012

W. C. Early, Acting  
Regional Administrator,  
Region III.

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